

1

2

3

4

5

6

7

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

11

KEVIN LAMAR PORTER,

Case No. 1:23-cv-01491-JLT-BAM (PC)

12

Plaintiff,

ORDER GRANTING DEFENDANTS' SECOND REQUEST FOR EXTENSION OF TIME TO FILE RESPONSIVE PLEADING

13

AMEZCUA, *et al.*,

(ECF No. 42)

15

Defendants.

Responsive Pleading Due: March 5, 2025

17

17 Plaintiff Kevin Lamar Porter (“Plaintiff”) is a state prisoner proceeding *pro se* and *in
forma pauperis* in this civil rights action under 42 U.S.C. § 1983. This action proceeds on
18 Plaintiff’s second amended complaint against: (1) Defendant Amezcuia for retaliation in violation
19 of the First Amendment and a related state law claim for violation of the Bane Act; (2) Defendant
20 Amezcuia for excessive force in violation of the Eighth Amendment and related state law claims
21 for battery and violation of the Bane Act for slamming Plaintiff on the ground; (3) Defendants
22 Amezcuia, Chao, and John Does 1–5 for excessive force in violation of the Eighth Amendment
23 and related state law claims for battery and violation of the Bane Act for forcefully moving
24 Plaintiff despite his complaints of severe pain; and (4) Defendants Amezcuia, Chao, John Does 15,
25 and Jane Does 1–2 for deliberate indifference to medical care in violation of the Eighth
26 Amendment and a related claim for violation of the Bane Act.
27

28

1 Pursuant to the Court's November 4, 2024, order finding service of the complaint
2 appropriate and directing electronic service, and the December 30, 2024 order granting
3 Defendants' *ex parte* motion for extension of responsive pleading deadline, Defendants Amezcua
4 and Chao's answers or other responsive pleadings are due on or before February 3, 2025.¹ (ECF
5 Nos. 33, 41.)

6 Currently before the Court is Defendants Amezcua and Chao's second motion for
7 extension of time to file responsive pleading, filed January 22, 2025. (ECF No. 42.) Plaintiff has
8 not had the opportunity to respond to the motion, but the Court finds a response unnecessary. The
9 motion is deemed submitted. Local Rule 203(l).

10 In support of the motion, counsel for Defendants Amezcua and Chao declares that while
11 he has spoken with one of the defendants, due to scheduling issues and despite several efforts to
12 do so, he has not been able to speak with the other defendant regarding Plaintiff's allegations.
13 (ECF No. 42.) Counsel must speak with each of Defendants Amezcua and Chao and review
14 documents received between January 8 and January 17 to meaningfully prepare an answer. In
15 addition, further investigation is needed to determine whether to proceed with and draft a motion
16 to dismiss as to at least one of the defendants. Counsel's efforts to prepare an answer and a
17 motion to dismiss have been hindered by a busy case load. Defendants request a further thirty-
18 day extension of time, up to and including March 5, 2025, to respond to the second amended
19 complaint. (*Id.*)

20 The Court, having considered the request, finds good cause to grant the requested
21 extension of time. Fed. R. Civ. P. 6(b). The Court further finds that Plaintiff will not be
22 prejudiced by the brief extension requested here. Counsel is warned that further requests for
extension of this deadline will be subject to a narrow interpretation of what constitutes good
cause.

25 ///
26 ///

27 _____
28 ¹ Defendants John Doe 1–5 and Jane Doe 1–2 have not yet been served. Plaintiff was directed to provide written notice identifying these defendants for service of process by February 5, 2025. (ECF No. 32.)

1 Accordingly, it is HEREBY ORDERED as follows:

- 2 1. Defendants Amezcua and Chao's second request for extension of time to file responsive
3 pleading, (ECF No. 42), is GRANTED; and
4 2. Defendants Amezcua and Chao shall file and serve a response to the second amended
5 complaint on or before **March 5, 2025**.

6 IT IS SO ORDERED.

7 Dated: January 24, 2025

8 /s/ Barbara A. McAuliffe
9 UNITED STATES MAGISTRATE JUDGE

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28